

Christine Joyce

cc: BOS

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From: Roland Bartl  
Sent: Friday, September 29, 2006 11:26 AM  
To: Christine Joyce  
Subject: FW: Acton/Yin Peet: Quarry Road Agreement

0410



06-08 Quarry  
Roads Agreement-2.

Here is the e-mail string. Final agreement attached.

Roland Bartl, AICP  
Town Planner, Town of Acton  
472 Main Street  
Acton, MA 01720  
978-264-9636

-----Original Message-----

From: Stephen Anderson  
Sent: Friday, September 29, 2006 11:13 AM  
To: Steven Graham  
Cc: Roland Bartl; Don Johnson; John Murray  
Subject: RE: Acton/Yin Peet: Quarry Road Agreement

Thanks Steve.

Don: Please put this Agreement on the Board's agenda for signature Monday night.

Steve

-----Original Message-----

From: Steven Graham [mailto:SGraham@graham-harsip.com]  
Sent: Friday, September 29, 2006 11:08 AM  
To: Stephen D. Anderson  
Subject: RE: Acton/Yin Peet: Quarry Road Agreement

Hi Steve,

Thanks. My clients have reviewed the Agreement and will come by to sign. I will get four signed Agreements to Don's office by Monday so that the Selectman can sign if they agree with the changes.

Steve

Steven R. Graham, Esq.  
Graham & Harsip, P.C.  
289 Great Road, Suite 101  
Acton, MA 01720  
978-264-0480  
fax 978-264-4990

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>>> "Stephen D. Anderson" <SAnderson@AndersonKreiger.com> 09/28/06  
>>> 05:43PM >>>  
Steve:

I have attached a clean and redlined redraft of the proposed Agreement between the Town and the Peets. In response to your numbered points below, I have the following responses:

1. I have inserted the Book and Page reference in the document.
2. If the Peets are correct that they have own an access easement by grant, by prescription or by necessity, a Town Meeting vote is not required to relocate the easement in the manner provided in the Agreement. See M.P.M. Builders, LLC v. Dwyer, 442 Mass. 87 (2004) and Town Charter (Town Manager has "full and exclusive jurisdiction of the .. use of all town real property" (Section 4-3-g-5), and shall administer "all provisions of the general and special laws applicable to the town, [and] the by-laws and votes of the town," (Section 4-3-g-8)).
3. I have inserted text to address this.
4. I have inserted text to address this.
5. On the first point, this language was taken from the prior agreement between the same parties. I have inserted text to address the second point.
6. I have inserted text to address this.
7. The Town's acceptance of its easements and water rights easement needs Town Meeting approval. See new second paragraph of Section IV with respect to the Peets' easement.
8. I have inserted text to address this.
9. I have made the Termination Provision at the Peets' option, and I have included a ban on 40B use of the easement at Don's request.

Let me know if the Peets will sign this Agreement with these changes. It needs to get into the Selectmen's package in Friday if it will be signed by them on Monday.

Steve

-----Original Message-----

From: Steven Graham [mailto:SGraham@graham-harsip.com]  
Sent: Tuesday, September 26, 2006 12:24 PM  
To: djohnson@acton-ma.gov; Planning@acton-ma.gov; Rbartl@acton-ma.gov; Stephen D. Anderson  
Cc: Ypeet@verizon.net; cpeet@wpi.edu  
Subject: Quarry Road Agreement

Hello All,

The following are comments/suggestions to the proposed agreement between my clients, Yin Peet and Creighton Peet, and the Town of Acton:

1. With respect to the first "Whereas" paragraph, the Deed to the Peets is recorded with the Middlesex South District Registry of Deeds in Book 41598, Page 399.
2. With respect to the relocation of the Peets' Access and Utility Easement over Parcel 24, will the grant of easement require Town Meeting approval or will

it be effective upon the execution of the Agreement and the recording of the Agreement and corresponding plan?

3. With respect to the Access and Utility Easement to the Town over Parcel 17, please provide that the Town will not disturb any of the infrastructure put in place by my clients over Parcel 17 and that it will be responsible to repair any damage done by the Town in exercising its rights.

4. With respect to the Water Rights and Easement to be conveyed by the Peets to the Town, I suggest that the language provide that the easement granted to the Town by exercised within the 20' right of way as shown on the PCRC plan, and where not shown across Parcel 11, that it be done on the most direct route between the quarry and the easement, unless otherwise agreed by the parties.

5. With respect to the "historic natural low water level of Quarry Pond", is that measurement readily discernable? Additionally, the language should provide that the Town will not draw down below that level, not that it should be the Town's "goal."

6. With respect to the Town's right to exercise its rights under the "Water Rights, Access and Utility Easement", can you please advise when the next Special Meeting or Annual Meeting is scheduled so that my clients will better be able to determine when the work will be done, or not, so that they can schedule their infrastructure work. With regard to the trench to be installed by the Town, should it exercise its rights, please provide that it will be constructed in size sufficient to enable my clients to install the various utilities to be installed by them to service their project. They have been advised by the Town Engineer that that should not be an issue.

7. Please advise whether Town Meeting approval is required for any of the provisions set forth in the Agreement. The need for Town Meeting approval and the possible failure to obtain such approval should not abrogate my clients' rights under the Special Permit.

8. With regard to the Enforcement Provision, said provision should be reciprocal.

9. Finally, whether or not my clients exercise their rights under the PCRC Special Permit, the various easements being granted by the Applicant to the Town and by the Town to my clients should survive. If their rights under the PCRC are not exercised, I do not want my clients to have to again deal with the issue of the right of way that is being addressed and satisfied by this Agreement.

I look forward to your comments. I will be leaving the office by 3:30 pm today and do not plan to attend the Hearing tonight.

Steve

Steven R. Graham, Esq.  
Graham & Harsip, P.C.  
289 Great Road, Suite 101  
Acton, MA 01720  
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